IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 778 OF 2005

Sitaram Nivrutti Pisal ...Petitioner

Versus

Divisional Controller,
M.S.R.T.C. Corporation, Pune ...Respondent

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Mr. P.G. Karande, counsel for Petitioner

Mr. G.S. Hegde, counsel for Respondent.

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CORAM: B. H. MARLAPALLE, J.
DATED: 12TH APRIL, 2005

P. C.:-

1. Heard Mr. Karande, the learned counsel for the petitioner and Mr. Hegde, the learned counsel for the respondent Corporation.

2. The view taken by the Industrial Court while exercising the revisional jurisdiction U/sec. 44 of the M.R.T.U. and P.U.L.P. Act, 1971 and thereby setting aside the order passed by the Labour Court in Complaint (ULP) No. 264 of 1994 cannot be termed as perverse or manifestly erroneous, more so at the time of checking it was noticed that the petitioner had collected Rs.77.50 towards the fare from one female passenger and one male passenger each (fare from Pune to Solapur), he had issued tickets of denominations of Rs.57.50 each. It was further noted that an amount of Rs.179.50 was found short when his cash was

checked. On the issue of disproportionate punishment Their Lordships in the case of **Divisional Controller, K.S.R.T.C. Vs. A.T. Mane [JT 2004 (8) SC 103**] have reiterated the law and more particularly in respect of the public servants like the present petitioner.

3. However, the petitioner has submitted an appeal against the dismissal order passed in January, 2005 and the said appeal is pending. Under the Discipline and Appeal Procedure as applicable to the petitioner, there is a second appeal provided and thus he has a departmental remedy of filing second appeal in case the first appeal fails. The departmental appellate authorities are expected to decide these appeals on their own merits.

4. No interference is called for in the impugned order passed by the Industrial Court in Revision Application (ULP) No. 76 of 2004 and therefore, while rejecting the petition summarily, it is directed that the pending appeal be decided on its own merits as expeditiously as possible and preferably within a period of eight weeks from today.

5. The petition is disposed of in terms of the above directions.

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